

**CONSTITUTION  
AND  
BY-LAWS  
  
OF  
  
THE AMERICAN LEGION  
DEPARTMENT OF TEXAS**

Revised June 27, 2010

# CONSTITUTION

## PREAMBLE

For God and Country, we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

## ARTICLE I

### NAME AND CHARTER

**Section 1.** The name of this organization shall be THE AMERICAN LEGION, DEPARTMENT OF TEXAS.

**Section 2.** The American Legion, Department of Texas, is an integral part of The American Legion as provided in Section 1, Article VIII, of the National Constitution, and chartered by the National Organization. It is incorporated under the laws of the State of Texas.

**Section 3.** The Department Headquarters shall be located in the Metropolitan area of the city of Austin, Texas.

## ARTICLE II

### PURPOSE

**Section 1.** The objects and purposes of this Department shall be to promote the principles and policies set forth in the foregoing Preamble and the National Constitution of The American Legion.

**Section 2.** The American Legion, Department of Texas, is a civilian organization; membership therein does not affect nor increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by his military or naval title in any convention or meeting of the Legion.

**Section 3.** The American Legion, Department of Texas, shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

## ARTICLE III

### ELIGIBILITY AND MEMBERSHIP

**Section 1.** Any person shall be eligible for membership in THE AMERICAN LEGION who was a member of the Army, Navy, Marine Corps, Coast Guard, or Air Force of the United States and assigned to active duty at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; February 28, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; August 2, 1990, to the cessation of hostilities as determined by the government of the United States; all dates inclusive, or who, being a citizen of the United States at the time of his entry therein, served on active duty in the armed forces of any of the governments associated with the United States during any of said periods; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably after any of said periods; provided further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious, political or other grounds to subject himself to military discipline or unqualified service.

**Section 2.** There shall be no form or class of membership except active membership. Membership shall be only through a local Post, and dues shall be paid annually or for life.

**Section 3.** No person may be a member at any one time of more than one post in The American Legion.

**Section 4.** No person who has been expelled by a post shall be admitted to membership in another post without the consent of the expelling post, except that where such consent has been denied by such post, he may then appeal to the Executive Committee of the department of the expelling post for permission to be admitted to membership in another post, and shall be ineligible for membership until such permission is granted.

**Section 5.** Each Post shall be the judge of its own membership, subject only to the restrictions of the National and Department Constitution and By-Laws.

**Section 6.** Transfers. Any member in good standing, to include members of Headquarters Post 345, moving or transferring to a Post near their home shall be transferred using The American Legion Member Data Form, completed by the new Post, without additional payment of dues. The new Post shall be the judge of its own membership in accordance with Article III, Section 5, Department of Texas Constitution and Bylaws. No member may transfer to another Post after an Affidavit of Charges have been filed with the Post Adjutant commencing a disciplinary proceeding. Dues already paid shall remain with the original Post and the transfer shall be complete upon issue of a new membership card

**Section 7.** Members found to be ineligible. If a Post determines one of its members is not eligible for membership, the Post shall notify the Department Adjutant at once in writing so that his name can be forwarded to the National Headquarters for removal from the membership rolls. It shall be presumed that a member who will not furnish proof of eligibility within 30 days of a written request, certified mail, return receipt

requested is not eligible for membership in The American Legion.

**Section 8. Acceptance of Dues.**

a. A member whose dues for the current year have not been paid by January 1<sup>st</sup> shall be classed as delinquent. If his dues are paid on or before February 1<sup>st</sup>, he shall be automatically reinstated. If a member pays his dues by February 1<sup>st</sup>, the Post must accept the dues.

b. If he is still delinquent after February 1<sup>st</sup>, he shall be suspended from all privileges. He shall have no right to serve as an officer, be elected to office, or vote. If he is still under such suspension on June 30<sup>th</sup> of such year, his membership in THE AMERICAN LEGION shall be forfeited.

c. A member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the post and payment of current dues for the year in which reinstatement occurs. Provided, however, that the posts, departments, and the National Organization may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, with reference to former members who have been prevented from the payment of dues by reason of active military service.

**Section 9.** A membership fee may be charged by each local Post. Annual dues for Department purposes shall be fixed for the ensuing year at each annual Department Convention, and in the event of failure of the Convention to act, the dues and charges of the preceding year shall be and remain in effect. The dues for the Department Headquarters Post 345 for the ensuing year shall be set at the Midwinter Conference by the Department Executive Committee. The amount of local Post dues shall be fixed by each Post.

**Section 10.** National dues, as determined by the National Convention, shall be collected by the Department in accordance with the National and Department Constitution and By-Laws.

**Section 11.** All applications for membership and transfers in a Post shall be acted upon at the next Post General Membership Meeting following the making of such application or transfer, and shall, at such meeting, be accepted, rejected or referred for further investigation and consideration. If a majority of the members present at the Post General Membership Meeting cast their vote against the acceptance of such application, then such application shall be recorded as rejected.

**Section 12.** The Department Adjutant shall notify all Posts in the Department of Texas and National Headquarters in writing of all members expelled by Posts in the Department.

**Section 13.** Any member in good standing in a post who is moving from the State of Texas is entitled upon request to receive a certificate from his post stating the inclusive dates he was a member of the Post.

## ARTICLE IV

### OFFICERS

**Section 1.** The Department Officers shall consist of a Department Commander, a Department Vice Commander, a Department Adjutant, a Department Treasurer, a Department Judge Advocate, a Department Historian, a Department Sergeant at Arms, a Department Chaplain, members of the Department Executive Committee, National Executive Committeeman and Alternate National Executive Committeeman.

**Section 2.** The Department Commander, Department Vice Commander, Department Treasurer, Department Judge Advocate, Department Historian and Department Sergeant at Arms shall be elected at the Department Convention; four Division Commanders are to be elected at the Division Caucuses or Division Conventions. The District Commanders and District Vice Commanders shall be elected at the District Convention held in each District. The Division Commanders, the District Commanders and District Vice Commanders elected shall be confirmed by the Department Convention. All elective officers shall serve for a term of one year, except the National Executive Committeeman, Alternate National Executive Committeeman, the District Commanders and District Vice Commanders, who shall serve for a term of two years or until their successors are elected and qualified. The Department Commander, the Department Vice Commander, Department Sergeant at Arms, Division Commanders, District Commanders and District Vice Commanders are not eligible to succeed themselves, unless serving an unexpired term.

**Section 3.(a.)** The Department Chaplain shall be appointed annually by the incoming Department Commander, subject to confirmation by the Department Executive Committee. There may be an Assistant Department Sergeant at Arms appointed by the Department Commander and confirmed by the Department Executive Committee.

**(b.)** In case of death, incapacity, resignation or vacancy of the Department Commander, the Department Vice Commander shall immediately take office as Department Commander. The vacant position of Department Vice Commander will be filled as prescribed in Article IV, Section 3 (c).

**(c.)** In case of death, incapacity, resignation or vacancy of the Department Vice Commander, the Department Commander shall immediately call a meeting of the Department Executive Committee to be held within fifteen (15) days from the date of the occurrence to elect a Department Vice Commander from among the Division or District Commanders.

### **Section 4. DIVISIONS**

The four Divisions shall be designated by the Department Executive Committee. Each Division Commander shall be a resident and member of a Post within that respective Division; each shall be elected from one of the respective four Divisions and continue to reside in the respective Division during tenure of office. In case of death, resignation, relocation outside of the Division boundaries or the incapacitation of a Division Commander which will cause the Division Commander to miss a Division Convention or Department Executive Committee meeting as scheduled, the Department Commander

shall fill the vacancy (after conferring with the District Commanders of said Division) until the Division Commander recovers or is replaced by the Department Commander.

## **Section 5. DISTRICTS**

**(1)** American Legion Districts are hereby authorized. The Department Executive Committee shall designate the specific number and boundaries of Districts. Districts shall be designated by number and boundaries to serve the best interests and the purposes of The American Legion. However, American Legion Districts shall be numbered as now constituted and any changes shall be subject to final action by the Department Convention.

**(2)** The District Commander and District Vice Commander from evenly numbered Districts shall be elected in evenly numbered years; and, those representing Districts numbered unevenly shall be elected in unevenly numbered years.

**(3)** Each District shall hold at least one convention each year at the call of the District Commander, the dates of which shall be coordinated with the Department Commander and Department Adjutant. Summary of proceedings shall be forwarded by the District Commander to the Department Adjutant within thirty (30) days after the convention. In the event of failure or refusal by the District Commander to call a regular convention, three Posts in the District shall have the authority to call the convention to be presided over by the District Vice Commander.

**Section 6.** Each District Commander and District Vice Commander shall be a member of a Post in the District from which elected and also shall be a resident of the District or the adjacent District. Failure of the District Commander to comply with these provisions shall cause the District Commander's office to be declared vacant by the Department Commander. If the office of District Commander becomes vacant, the District Vice Commander will assume the office and perform the duties thereof until the next District Convention, at which time a District Commander shall be elected to fill the unexpired term. If the District Vice Commander fails to qualify then a majority of the Post Commanders shall appoint a District Commander to serve until the next District Convention at which time a District Commander and/or a District Vice Commander shall be elected to fill the unexpired term.

**Section 7.** The District Commander presiding at each District Convention shall be responsible for forwarding a certified copy of the District officers, a listing of the National Convention Delegates and Alternate Delegates elected, and a copy of all resolutions passed at said Convention to the Department Adjutant within ten (10) days after the adjournment of such District Convention.

**Section 8.** All Department officers, including the newly elected members of the Department Executive Committee, shall assume their respective duties at the time of adjournment of the Department Convention, except the National Executive Committeemen and Alternate National Executive Committeeman, whose two year term shall commence immediately upon the adjournment of the National Convention next ensuing after their election and shall end at the adjournment of the second next succeeding annual convention.

**Section 9.** Vacancies in Department Offices not herein before or hereafter provided for shall be filled by the Department Commander subject to the confirmation by the Department Executive Committee at its next meeting, and written notice of such action mailed to all Posts.

**Section 10.** Adjutant. The Department Executive Committee shall have the authority to elect or remove the Department Adjutant by a two-thirds (2/3) vote of its total Members (see Bylaws Article III, I Section 6)

## **ARTICLE V**

### **POSTS**

**Section 1.** Posts shall be formed as provided under the National Constitution and shall be governed on all matters of Department and National finance as set forth in the National Constitution.

**Section 2.** No Post shall have the right by resolution or other Act, to withhold or divert annual Department or National dues collected or funds collected from approved sources of the Department or National organizations.

**Section 3.** All funds collected for the Department and the National Headquarters shall be forwarded to the Department within 30 days of receipt.

**Section 4.** Election of Post Officers: Officers shall be elected at a Post meeting held not less than fifteen (15) days prior to the Department Convention, and at the same time delegates and alternates to the Department Convention shall be elected. Post Officers shall be installed not later than the first regular Post meeting in October following their election.

**Section 5.** It shall be mandatory for Post Adjutants to certify to Department Headquarters the names of Post Officers elected/appointed for the ensuing year, immediately, but no later than 10 days after their election, as prescribed by the Department Executive Committee, together with a list of delegates and alternates elected to the Department Convention.

**Section 6.** A member of an American Legion Post may authorize proxy voting for himself by another member of the same Post if provided for in the Post Constitution and By-Laws; said proxy shall be in writing and signed by the member issuing it. There will be no proxy voting within the Department of Texas above the Post level.

**Section 7.** No Post shall be named after any living person.

## **ARTICLE VI**

### **INTERMEDIATE BODIES**

**Section 1.** Intermediate bodies and groups as provided by Article VIII, National Constitution, are recognized. Each shall adopt a Constitution and By-Laws subject to

approval by the Department Judge Advocate and the Department Executive Committee.

**Section 2.** In the absence of an adopted and approved Constitution and By-Laws by a post or intermediate body, the Constitution and By-Laws approved by the Department Executive Committee as a recommended or model Constitution and By-Laws shall be used to govern the activities of that Post or intermediate body.

**Section 3.** The name of the Post, name of an intermediate body, or the name of the Department, or of the phrase, "The American Legion" shall not be used in connection with club, entity or business ventures, or in furtherance of any venture of a commercial nature, unless said project is owned in its entirety and controlled solely by said Post or intermediate body, and then, only after the approval of the Department Executive Committee has first been obtained, or between Department Executive Committee meetings, approved by the Department Commander.

**Section 4.** Posts shall not solicit money or donations by employing in part or fully, fundraising organizations or individuals or other entities unless the Post will receive 50% or more of the gross receipts.

**Section 5.** Where there is an Executive Committee, all Posts in the municipality and suburb within its area must be members of and governed by the Executive Committee as to The American Legion policies. Any District or Districts that are included within a municipality or suburb may create an Executive Committee.

## **ARTICLE VII**

### **REAL ESTATE**

**Section 1.** No real estate owned by any Post or trustee of any Post will be sold or used as collateral for a loan without the approval of the Department Executive Committee or where time is of the essence the Department Commander, who shall report said action to the next Department Executive Committee meeting..

**Section 2.** Any Post whose real estate becomes encumbered with a lien will notify the Department Adjutant within 7 days of receiving notice of the lien.

## **ARTICLE VIII**

### **AUXILIARIES**

**Section 1.** The American Legion Auxiliary, Department of Texas, organized under the provisions of the National Constitution, is a recognized women's auxiliary organization of The American Legion, Department of Texas.

**Section 2.** Eligibility for membership in the American Legion Auxiliary, Department of Texas, shall be the same as that prescribed for membership by the National Constitution and By-Laws, except as provided in Article III of this Constitution.

**Section 3.** The Auxiliary shall be governed in this Department of The American Legion

by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by this Department of The American Legion.

## **ARTICLE IX**

### **DISCIPLINE, REVIEW, APPELLATE COURT**

**Section 1.** The Department Executive Committee shall provide a Department of Texas Uniform Code of Procedure, review and court of appeals in all matters of discipline involving individual members and suspension or revocation of charters. Posts shall follow the Department Uniform Code of Procedure and Supplement 1.

## **ARTICLE X**

### **DEPARTMENT CONVENTION**

**Section 1.** The Department Convention shall be held annually and shall be called at a date not less than thirty (30) days prior to the National Convention. The time shall be fixed by the Department Executive Committee not less than six (6) months in advance of the Convention. The Convention site shall be designated three years in advance of the Convention by the Department Executive Committee upon the recommendation of the Convention City Commission. In case of emergency the Department Executive Committee or the Department Commander, upon recommendation of the Convention City Commission, may change the date or the place of the Annual Convention.

**Section 2.** The Department Convention is composed:

**(a)** of the Department Commander, Department Officers, and Department Executive Committee, none of whom except the Department Commander, shall be entitled to a vote unless duly elected as a delegate to the Convention by his Post;

**(b)** of the duly elected delegates from the Posts in the Department.

**(c)** The Past Department Commanders, who served in that capacity while a member of the Department of Texas, who may be present and who are members in good standing of a recognized Post of the Department of Texas, shall have one additional vote to be counted with the votes of their Posts, but the additional vote of no such Past Department Commander shall be counted unless the Past Department Commander is registered as present and on the floor at the Convention.

**Section 3.** In the Department Convention each Post shall be entitled to two (2) delegates for the first fifteen (15) members. Posts with less than fifteen (15) members shall be entitled to only one (1) delegate. Each Post shall be entitled to one (1) additional delegate for each twenty-five (25) members or major fraction thereof, whose current dues have been received by Department Headquarters thirty (30) days prior to the date of said convention, and one (1) alternate for each delegate. The registered and certified delegates present at the Department Convention may cast the total votes authorized for the Post.

**Section 4.** Every member authorized to represent a Post as delegate or alternate to the Department Convention shall be listed on the written notice of their appointment by the

Post Adjutant on the Credentials list of the Post.

**Section 5.** Every delegate must be a bona fide member of the Post in the Department of Texas which they represent at the Department Convention. The Chairman of each Post delegation must be identified to the Credentials Committee by a comparison of their signature and the signature on their membership card.

**Section 6.** All delegates registering at the Department Convention shall be required to present their current American Legion membership cards before being permitted to register.

**Section 7.** The Fall Meeting of the Department Executive Committee, shall set registration fees which shall be collected from every member who registers at the Department Convention.

**Section 8.** The Department Commander shall be the last officer elected at the Department Convention.

**Section 9.** Upon the election of the Department Officers at the Department Convention, the retiring Department Commander shall administer to each newly elected officer the following oath of office, to wit: "**I DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES OF AMERICA, THE STATE OF TEXAS, AND THE CONSTITUTION OF THE AMERICAN LEGION, DEPARTMENT OF TEXAS, AND TRULY PERFORM THE DUTIES OF MY OFFICE, TO THE BEST OF MY ABILITY, SO HELP ME GOD.**" There upon said officers shall be deemed qualified and shall assume their respective duties in the manner prescribed by this Department Constitution and By-Laws. In the event of the absence from the convention of any newly elected officer, or whenever an occasion requires, the above oath of office may be administered by the Department Commander, the Department Vice Commander, or Department Adjutant.

**Section 10.** The Department Commander, if present, shall preside over the Department Convention, but may call the Department Vice Commander or a delegate to the chair. In the case of the absence of both the Department Commander and Department Vice Commander at the opening of the Convention the Department Executive Committee shall designate a presiding officer to act.

**Section 11.** If the Department Convention fails to meet or to elect and install officers at the appointed time, those in office shall continue and exercise full authority until their successors are duly elected and installed.

**Section 12.** Amendments to the Department Constitution and By-Laws shall become operative immediately upon adoption. Immediately upon adjournment of the Department Convention, all Posts in the Department shall be notified by the Department Adjutant in appropriate manner of all changes in and to the Department Constitution and By-Laws, and it shall be mandatory that all Posts change their respective Constitutions and By-Laws to conform thereto.

**Section 13.** Parliamentary procedure of the Department Convention and meetings of

the Department Executive Committee shall be governed by "Robert's Rules of Order, Newly Revised."

**Section 14.** The program of the Department Convention shall be limited to three (3) days, including the opening date.

**Section 15.** The registered delegates from a majority of the certified Posts on the floor at the Department Convention shall constitute a quorum for the transaction of all business.

## **ARTICLE XI**

### **NATIONAL CONVENTION DELEGATES**

**Section 1.** Delegates and Alternates to the National Convention shall be elected in the following manner: One Delegate and One Alternate shall be elected for each one thousand members of the District at the District Convention, excluding fractional parts of a thousand. One Delegate and One Alternate shall be elected by each Division Convention or Caucus. All additional Delegates and Alternates shall be elected by the Department Convention. A Nominating Committee, consisting of the regularly elected Delegates from the Divisions, shall nominate such additional Delegates and Alternates to the National Convention; provided, however, this shall not exclude the nominating of Delegates-at-Large on the floor of the Convention. Upon election as a delegate or an alternate to the National Convention each delegate and alternate shall remit their registration fee to Department. Registration fees of the Delegates and Alternates to the National Convention shall then be remitted by Department. Guests wishing to be registered at the National Convention must remit a registration fee as determined by National to Department. When a duly elected Delegate to the National Convention is not present, an Alternate from within the District or Division of the absentee shall be chosen by the Delegation Chairman. Only where there is no one present from a certain District or Division shall the Delegation Chairman be permitted to appoint a substitute from another District or Division.

## **ARTICLE XII**

### **NATIONAL EXECUTIVE COMMITTEEMAN**

**Section 1.** One National Executive Committeeman and one Alternate National Executive Committeeman shall be elected at Department Conventions held in even years, and shall serve for a period of two years, as provided under Article VII of the National Constitution. The Alternate National Executive Committeeman shall have all the powers of the National Executive Committeeman at the meetings at which the National Executive Committeeman is not present. In the event of a vacancy in the office of National Executive Committeeman or Alternate National Executive Committeeman, the Department Executive Committee at its next meeting shall elect an eligible person to serve for the unexpired term.

## **ARTICLE XIII**

## **BY-LAWS**

**Section 1.** This organization shall be governed according to By-Laws adopted at Annual Department Conventions, and said Department By-Laws shall not conflict with the provisions of this Department Constitution.

## **ARTICLE XIV**

### **AMENDMENTS**

**Section1.** This Constitution may be amended at any Department Convention by a favorable vote of two-thirds (2/3) of the total delegate votes on the floor. It is further provided that the proposed amendments shall have been read at such convention at least four hours before being voted upon; and further provided that a record of the vote and the amendments shall be preserved. All proposed amendments to the Department Constitution must be presented to the Chairman of the Department Constitution and By-Laws Committee of the Convention by noon of the opening day of the Convention business session.

## **BY-LAWS**

### **ARTICLE I**

#### **DEPARTMENT EXECUTIVE COMMITTEE**

**Section 1.** The Department Executive Committee shall consist of the Department Commander, the National Executive Committeeman, the Alternate National Executive Committeeman, the Immediate Past Department Commander, Department Vice Commander, Department Treasurer, Department Judge Advocate, Department Chaplain, Department Historian, Department Sergeant at Arms, four Division Commanders, one District Commander from each American Legion District in the State. The Department Judge Advocate, Department Chaplain and Department Treasurer shall not have a vote on the Department Executive Committee. All past National Commanders of the Department, while in good standing in their respective Posts, shall be members for life of the Department Executive Committee, without vote.

### **ARTICLE II**

#### **BOARD OF TRUSTEES**

**Section 1.** A Board of Trustees is hereby created to consist of six members of The American Legion, Department of Texas, and the current Department Commander, with right to vote, to be known as "The Board of Trustees of The American Legion, Department of Texas." One member of said Board of Trustees shall be elected each year by the Department Executive Committee on nomination by the Department Commander to serve for a term of six years. No member of said Board shall be eligible to succeed himself/herself unless serving an unexpired term.

**Section 2.** At the first regular meeting of the Board of Trustees in each year, the Board shall elect a Chairman and a Vice Chairman who shall serve for a term of one year and shall not be eligible to succeed themselves. The Department Treasurer, Chairman of Finance and Budget Committee, Department Judge Advocate, and Department Adjutant shall serve the Board in their respective capacities but shall not be granted privilege of vote on any question coming before the Board of Trustees. The meetings of the Board shall be held at such time and place as deemed necessary by the chairman or on call of three members thereof. The Board of Trustees shall be responsible to the Department of Texas.

**Section 3.** A majority shall have power to act and to exercise all the authority of the Board. The members of the Board shall serve without pay.

**Section 4.** If a member of the Board of Trustees fails to attend in person two consecutive meetings of the Board, without a valid cause, his/her place shall be declared vacant. Vacancies in the Board of Trustees shall be filled by election by the Department Executive Committee of The American Legion, Department of Texas, upon nomination by the Department Commander.

**Section 5.** Duties and Functions

**(a)** The duties of the Board of Trustees shall be to take charge of all trust funds and all trust properties, real, personal or mixed, the legal title to which is now vested, or may hereafter vest, in The American Legion, Department of Texas, or which may be offered to and accepted by The American Legion, Department of Texas. The disposal of Department property shall be made only upon a resolution authorizing same by the Board of Trustees and the execution of proper instrument of conveyance by the current Department Commander and attested to by the Department Adjutant.

**(b)** Said Board shall have the power and it shall be its duty to invest and reinvest such funds, and to administer said properties according to their discretion as trustees; provided, however, that in no event shall such Board of Trustees invest any such property or funds as may come into their possession except in such income property as guardians are, at the time of such investment, authorized to invest the funds of their wards as provided by the laws of the State of Texas. Said Board may delegate to a responsible trust company the details of handling such of said funds as they may find and deem advisable. It shall be the duty of the Board of Trustees to properly cover all property by adequate insurance in order that the Department shall be protected against fire, hail, tornado, liability and other losses. Coverage shall be only by such insurance companies as are authorized to do business in Texas by the State Board of Insurance.

**(c)** The income from all such properties and funds as said Board may hold for the benefit of The American Legion, Department of Texas, may be used by said Board for such purposes as may be recommended to and approved by the Department Executive Committee, and in no event shall any part of the corpus of such trust property or funds be expended for any other purpose whatsoever. If it shall be deemed advisable to sell any part of the corpus of such trust property the entire proceeds of such sale shall immediately be re-invested and shall become a part of the corpus of such trust estate. The income, if any, from mineral leases, whether as bonus or royalty, may be considered as income of the trust estate by said Board.

**Section 6.** The authorized expenses incurred by the members of said Board in the discharge of their duties shall be allowed them and shall be paid from the income of said trust estate upon approval of such expense account by the Chairman of the Board.

**Section 7.** All meetings of the Board of Trustees shall be open to any Legionnaire and the minutes of all proceedings of all meetings shall be retained in the joint custody of the Department Adjutant and the Chairman of the Board and extracts thereof made available to all Post Adjutants and Department Officers and Committee Chairmen upon request.

## **ARTICLE III**

### **DUTIES OF OFFICERS**

#### **A - Department Commander**

**Section 1.** The Department Commander shall be the executive head of the Department.

**Section 2.** It shall be the duty of the Department Commander to see that the

Constitution and By-Laws of the Department are strictly observed and that the Department Officers properly execute their duties. The Department Commander shall have full power to enforce the provisions of the Department Constitution and By-Laws and mandates of the Department Convention and Department Executive Committee and shall make a semi-annual report to the Department Executive Committee of the Department Commander's activities and submit an annual report to the Department Convention.

**Section 3.** The Department Commander shall be a member of the Department Executive Committee and shall notify all members of the Department Executive Committee of the time and place of all regular and called meetings at least five days prior to such meetings, and shall preside at the meetings of the Department Executive Committee.

**Section 4.** The Department Commander only shall cause to be issued by the Department Adjutant, or other competent authority, travel orders on which disbursements shall be made by the Department Treasurer. The Department Officers, Division and District Commanders, and District Vice Commanders may be reimbursed for authorized expenses incurred while traveling within their territorial bounds, and to all meetings of the Department Executive Committee insofar as the approved budgets for travel shall permit for the Department, Divisions and Districts.

## **B - The Department Vice Commander**

**Section 1.** The Department Vice Commander shall have the qualifications of Department Commander and be elected at the annual Department Convention. In case of death, resignation or the failure of the Department Commander to serve for any reason, the Department Vice Commander shall assume the office of Department Commander. The Department Vice Commander shall be a member of the Department Executive Committee, shall be in charge of membership, and act as representative for the Department Commander.

## **C - The Department Adjutant**

**Section 1.** All proceedings of the Department Convention or any called Convention are to be drawn up in proper form and permanently recorded by the Department Adjutant.

**Section 2.** All petitions, reports, appeals, returns, and other communications at the convention are to be delivered to the Department Adjutant and the Department Adjutant is to see that they are filed in an orderly manner and carefully preserved.

**Section 3.** No instrument of writing is authentic without the Department Adjutant attestation and the impress of the Department Seal, which is in the Department Adjutant's charge.

**Section 4.** The Department Adjutant is to distribute the documents referred to committees or other officers, according to the orders of the Department, and to notify such committees or other officers of their appointments to any duty.

**Section 5.** The Department Adjutant shall supervise the printing of all documents,

proceedings, and other matters ordered to be printed by the Executive Committee.

**Section 6.** After each Department Convention and Department Executive Committee meeting the Department Adjutant shall transmit to the Posts minutes of such meeting when a request for a copy of the minutes has been received in Department.

**Section 7.** The Department Adjutant shall keep an accurate list of all Posts and officers of the same, and shall supply all Department officers and Committeemen with this list.

**Section 8.** The Department Adjutant shall correspond with Posts and members in the Department and perform such other duties incidental to the Department Adjutant's office as the Department Commander and the Department Executive Committee may direct.

**Section 9.** The salary and conditions of employment of the Department Adjutant shall be fixed by the Department Executive Committee.

**Section 10.** The Department Adjutant shall attend all meetings of the Department Executive Committee and shall have the proceedings of the meetings recorded. The Department Adjutant shall not be a member of the Department Executive Committee and is not entitled to a vote.

**Section 11.** The Department Adjutant shall check the correctness and completeness of all expense accounts submitted to the Department for payment before they are turned over to the Department Commander for approval.

**Section 12.** In the event the Department Adjutant shall be unable to act due to illness, resignation or death, the authority, duties and responsibilities of the Department Adjutant's office shall be assumed by the Director of Internal Affairs, until the next Department Executive Committee meeting. The Department Executive Committee shall then elect a Department Adjutant according to Article IV, Section 10, of the Constitution.

**Section 13.** The Department Adjutant shall report to all Posts in the Department the subjects of all Resolutions passed by Department Conventions. When this report includes Resolutions which contain distribution clauses, the Department Adjutant shall report compliance with the distribution clauses and shall cause a list of the actual recipients of copies of such resolutions to be filed with the Department file copies.

## **D - The Department Treasurer**

**Section 1.** The Department Treasurer shall receive all funds due the Department from any source, giving the Department Treasurer's receipt thereof, and shall enter same in regular accounts with the purpose for which intended.

**Section 2.** The Department Treasurer shall make disbursements only on legal orders from the Department Executive Committee.

**Section 3.** The Department Treasurer shall make an annual report at the Department Convention, and such other reports as ordered by the Department Executive Committee.

## **E - The Department Judge Advocate**

**Section 1.** The Judge Advocate of the Department of Texas must be a graduate of an accredited Law School, licensed to practice law by the State of Texas and the Department Judge Advocate must be a member of the State Bar and a member in good standing of The American Legion, Department of Texas. It shall be the duty of the Department Judge Advocate to pass on the legality of all documents and all questions of a legal nature, and to render the Department Judge Advocate's opinion on same to the Department Commander. The Department Judge Advocate will review the Department Constitution and Bylaws on an annual basis with the Department Constitution and Bylaws Chairman.

## **F - The Department Historian**

**Section 1.** The Department Historian shall keep an accurate history of the principal events pertaining to the Department, Posts and members thereof, and shall perform such other duties as may be assigned to the Department Historian by the Department Commander and the Department Executive Committee.

## **G - The Department Sergeant at Arms**

**Section 1.** The Department Sergeant at Arms shall be present at all conventions, and it shall be the Department Sergeant at Arms duty to carry all messages from the Department Commander to any other officers or members, or vice versa, and to maintain order and decorum in the meeting as provided in the Department Constitution and By-Laws, and as directed by the Department Commander.

## **H - The Department Chaplain**

**Section 1.** The Department Chaplain shall be charged with the spiritual welfare of the Department, attending meetings as required, which shall be opened and closed with non-sectarian prayer. The Department Chaplain shall also perform such other duties as may be assigned to the Department Chaplain by the Executive Committee or the Department Commander. Further, the Department Chaplain shall be available to carry on the "For God and Country" program, the annual Memorial Service, the "Chaplain's Workshops," the "Chaplain's Award" program, and to conduct non-sectarian religious services.

## **I - The Department Executive Committee**

**Section 1.** Between Department Conventions, the administrative powers of the Department shall be vested in the Department Executive Committee.

**Section 2.** The Department Executive Committee shall hold its meetings at least three times between Conventions, and more often if said Committee shall deem it necessary. The place and dates of such meetings shall be determined by the Department Commander, except that the first meeting of the Department Executive Committee shall be held immediately after the adjournment of the Department Convention.

**Section 3.** The Department Executive Committee may be called to meet by order of the Department Commander, or on call being duly drawn up and signed by five members of the Department Executive Committee, and upon receipt of such request the Commander shall immediately call a meeting of the Department Executive Committee. In the event the Department Commander refuses to call a meeting of the Department Executive Committee, after the Department Commander has been requested by five members of the Department Executive Committee as above outlined, the Department Adjutant shall call the meeting.

**Section 4.** No proxy except the District Vice Commander or a personal representative from the same District shall be permitted. A quorum for the transaction of business at any Department Executive Committee meeting shall consist of a majority of the voting members.

**Section 5. (a)** If a District Commander or Division Commander fails to attend in person two consecutive meetings of the Department Executive Committee without a valid cause, his/her place shall be declared vacant.

**(b)** In the event of a vacancy, ineligibility, removal for cause, death, resignation or incapacity of a Department Official on the Department Executive Committee, the Department Commander shall appoint a qualified person to fill such vacancy for an interim period, subject to confirmation by the Department Executive Committee at its next meeting subject to the provisions in the Constitution (Article IV, Section 9).

**Section 6.** The Department Executive Committee only shall authorize the employment of such personnel as they may deem necessary for the proper conducting of the affairs of the Department, and shall allow them such salaries as may be necessary. All Department employees shall report to and be under the supervision of the Department Adjutant. The employment of such employees may be terminated by the Department Adjutant. All employees, if eligible, shall be members of The American Legion, the American Legion Auxiliary or dependents thereof except the Department Adjutant, Director of Internal Affairs and Department Service Officers who shall be members of The American Legion. All persons who are permanently employed by the Department Adjutant shall have their employment confirmed by the Department Executive Committee at the first meeting of the fiscal year. The Department Executive Committee shall also authorize all other expenses for the Department.

**Section 7.** The Department Executive Committee and/or the Finance Committee shall have instituted such systems of accounting that a detailed account may be obtained at any or all times of any and all receipts and disbursements, and shall authorize the necessary forms.

**Section 8.** The Department Executive Committee shall cause to be issue a quarterly financial statement of the itemized financial accounts of the Department for the preceding quarter, and a copy of this statement shall be furnished to each officer and each member of the Department Executive Committee and each Post in the Department.

**Section 9.** Any member of the Department Executive Committee, a Department Committee or Department Commission may be removed or suspended for cause at a Department Executive Committee meeting by a two-thirds (2/3) vote of all voting members present; provided that the officer shall have been served with a written statement of the complaint at least fifteen days before such vote shall be taken, and shall have an opportunity to be heard at the Department Executive Committee meeting. A District or Division Commander, on the recommendation of a majority of the Post Commanders of his/her District or Division may be suspended pending such a hearing by the Department Executive Committee.

**Section 10.** (a) The Department Commander with assistance of the Department Treasurer, Chairman of the Finance and Budget Committee and Department Adjutant shall prepare or cause to be prepared a proposed budget, a copy of which shall be delivered to each member of the Department Executive Committee, and each member of the Department's Finance and Budget Committee, not later than two weeks prior to the first meeting of the Department Finance and Budget Committee. At the first meeting of the Department Finance and Budget Committee in each fiscal year, said Committee shall prepare a budget for the Department, which shall not exceed the gross income (gross income does not include National Membership dues) and reserve funds for the preceding year. The reserve funds of The American Legion, Department of Texas, shall not exceed the next fiscal year budget. Any reserve funds exceeding the annual budget shall be placed in a capitol assets fund for the Department of Texas Board of Trustees each year.

(b) The Department Executive Committee in confirming the budget as prepared by the Department Finance and Budget Committee shall not appropriate more than the gross income and reserve funds (gross income does not include National Membership dues) for the previous fiscal year in approving the budget at the fall meeting of the Department Executive Committee.

(c) The Fiscal year for the Department of Texas shall commence on September 1 of each year and run through August 31 of the following year. The budget, when adopted by the Department Executive Committee, shall remain in full force and effect until changed at a future meeting of the Department Executive Committee, but still subject to Section 10 (b).

**Section 11.** All meetings of the Department Executive Committee shall be open to any Legionnaire and the digest of all proceedings shall be furnished to any Legionnaire upon request. The Department Adjutant shall prepare the digest of proceedings within sixty (60) days.

**Section 12.** The Department Executive Committee at the meeting immediately following the adjournment of the Department Convention shall authorize a sum to cover travel expenses and additional expenses as may be approved by the Department Executive Committee for the incoming Department Commander, National Convention Delegation Chairman and the Department Adjutant, which funds shall be used to attend the National Convention as representatives of the Department of Texas. Each shall furnish Department Headquarters, within thirty days after the Convention, a written report of their activities and disposition of various Departmental matters of the convention. A copy of his/her report shall be furnished each Department officer or any Legionnaire upon request.

**Section 13.** No appropriation shall be considered by the Department Executive Committee or Department Convention unless the appropriation has first been submitted to and passed upon by the Department Finance and Budget Committee. In the event a proposed appropriation is rejected by the Department Finance and Budget Committee, the proposer of such proposition may present the matter to the Department Executive Committee and/or to the Department Convention for final action.

**Section 14.** Authorized expenses of members of the Department Executive Committee incurred in the discharge of their official duties shall be allowed them when expense accounts have been properly submitted within the thirty day period.

**Section 15.** No changes shall be made to the annual membership goals or awards after they have been approved by the Department Executive Committee, except to correct administrative error.

## **ARTICLE IV**

### **COMMITTEES AND COMMISSIONS**

**Section 1.** The Committees for the Department shall consist of the following:

**(1)(a).** Finance and Budget Committee. The Finance and Budget Committee shall consist of five members, two of whom shall be appointed by the Department Commander from the Department Executive Committee and who shall serve for one year, the other three members shall be appointed for a term of three years, one to be appointed each year by the Department Commander and all shall be subject to approval by the Department Executive Committee. Chairmen shall be designated by the Department Commander. Vacancies on this committee shall be filled by appointment by the Department Commander. The Department Commander, Department Treasurer and the Chairman of the Board of Trustees shall be ex-officio members of said Committee and the Department Adjutant shall be ex-officio secretary of said Committee. Said Committee shall be charged with the duty of preparation of the yearly budget and handling funds under that budget and such other duties as shall be prescribed by the Department Executive Committee. Ex-officio members shall have voice but no vote.

**(1)(b).** Long Range Planning Committee. The Long Range Planning Committee is to develop and perpetuate a long term plan for the Department and shall submit recommendations for action to the appropriate Commissions or to the Department Executive Committee for its consideration. The Long Range Planning Committee shall consist of the current Department Commander and six other members who shall be appointed to 3-year terms. The Department Commander shall appoint two members each year. The Charter members of the Committee will be appointed two for three years, two for two years and two for one year. In the event of a vacancy, the Department Commander shall appoint a member to fill the unexpired term. The Committee will meet at least 3 times, or more, per year, at the discretion of the Department Commander. The Division Commanders, Department Judge Advocate, Department Treasurer and the Department Adjutant shall serve as ex-officio members with voice but no vote. At the first Committee meeting of each year, the voting members

of the Committee shall elect a Chairman and a Vice Chairman. The Department Adjutant shall serve as Secretary.”

**(2)** Department Convention Committees shall be Americanism, Membership and Organization, National Security, Veterans Affairs and Rehabilitation, Constitution and By-Laws, Legislative, Public Relations and Publications, Resolution Assignment and Credentials and Rules. Chairman and members of the Convention Committees shall consist of the Chairman of the respective Commission or subcommittee, one member from each District and one alternate who may serve in the absence of the principal, except that the Department Convention Resolutions Assignment Committee shall consist of a Chairman and the four Division Commanders. The Department Commander shall appoint the Chairman of the Department Convention Committees for Resolutions Assignment and Credentials and Rules.

**(3)** Special Committees. The Department Commander shall have the authority to appoint such special committees to serve for a period not to exceed the Department Commander’s respective term of office, and as may be authorized by the Department Convention and the Department Executive Committee. A Department Commander may further appoint such other necessary Convention Committees not otherwise provided for.

**(4)** All Committees shall cooperate with other respective and like committees, with the Department Executive Committee and with National Commissions and Committees.

**Section 2.** There shall be seven commissions of activity.

- (1) Americanism
  - a. Boys State
  - b. Baseball
  - c. Boy Scouts
  - d. Children & Youth
  - e. Community Service
  - f. Junior Shooting
  - g. Legion Riders
  - h. Oratorical Contest and School Awards
  - i. Sons of The American Legion
- (2) Membership and Organization
  - a. Membership
  - b. Uniformed Organization
  - c. Constitution and By-Laws
  - d. Awards and Trophies
- (3) National Security
  - a. Military Affairs
  - b. Foreign Relations
  - c. Aerospace
  - d. Law and Order

- (4) Veterans Affairs and Rehabilitation
  - a. Hospitals and VAVS
  - b. Veterans Preference and Employment
- (5) Convention City
- (6) Legislative
  - a. Legislative Council
- (7) Public Relations and Publications

**Section 3. (a)** The Americanism, Membership and Organization, National Security, Veterans Affairs and Rehabilitation, Convention City, Legislative, Public Relations and Publication Commissions shall consist of four members, each representing a different Division, A Division Commander, designated by the Department Commander, and a chairman of each sub-division, except that the four Division Commanders shall serve on the Membership and Organization Commission. The members of each of the said Commissions shall be appointed from a different Division and shall serve a term of four years except that one will retire each year. The Chairman of each sub-division under each Commission shall be appointed annually, except that the Chairman of the Legislative Commission shall serve as Chairman of the Legislative Council. The Legislative Council shall consist of one member from each American Legion District in Texas. Appointment shall be by the Department Commander subject to approval by the Department Executive Committee. The Chairman of each Commission shall be designated annually by the Commander, except that the Department Vice Commander shall be chairman of the Membership Sub-Division. In the event a Division member of a standing commission or committee is elected to the Department Executive Committee, he/she shall, if his/her term does not expire prior to assuming office, resign his/her position as Division member so that the incoming Department Commander may appoint a member to fill the unexpired term.

**(b)** Duties of the Commissions consist of duties normally appertaining thereto and as may be assigned by the Department Convention, the Department Commander and the Department Executive Committee.

**(c)** A member of any standing Committee or Commission may be removed for proper and adequate cause by the Department Commander, with the consent of the Department Executive Committee, and he/she shall be replaced for the unexpired term in the manner provided for the original appointment.

#### **Section 4. Commissions and Committees Outlines**

**(a) Americanism Commission: (1)** To develop and maintain a spirit of 100% Americanism among Legionnaires and the citizens of the State of Texas. To put into effect the Americanism programs of The American Legion; to coordinate any overlapping of plans dealing with Americanism; and to develop an overall policy of Americanism. To oversee and report on programs that relates to Americanism and many youth programs.

**(2)** The Americanism Commission will consist of the following sub-committees Chairman that will report to the commission: Boys State, Baseball, Boy Scouts, Children & Youth, Community Service and Education, Junior Shooting, Legion Riders, Oratorical Contest and School Awards, Sons of The American Legion

**(b) Membership and Organization Commission: (1)** To recommend programs to the Department and Posts for the promotion of such activities as would stimulate interest in The American Legion and its programs in all communities. To promote an increase of membership in the Department by utilizing the Department Membership Plan. To review the Department Membership Plan on an annual basis and recommend changes. To develop and implement a Department Revitalization/Retention Teams within the Department and Districts.

**(2)** The Membership and Organization Commission will consist of the following sub-committee Chairman that will report to the commission: Membership, Uniformed Organization, Constitution and By-Laws and Awards and Trophies

**(c) National Security Commission: (1)** Shall be responsible for all the National Security and Foreign Relations programs of The American Legion within the Department. To organize the members in support of national or civilian defense projects in the communities. To organize the Department and to assist in organizing the communities for readiness to meet any emergency. To inform the members of any actions that could have an effect on the security of the community, state and nation.

**(2)** The National Security Commission will consist of the following sub-committee Chairman that will report to the commission: Military Affairs, Foreign Relations, Aerospace, and Law and Order

**(d) Veterans Affairs and Rehabilitation Commission: (1)** Shall be responsible for all the Veterans Affairs and Rehabilitation Programs within the Department. To promote the programs of rehabilitation, employment and claims assistance for veterans and their dependents. To promote and coordinate volunteers at the Veterans Administration Hospitals to assist hospitalized veterans. To assist the Department Service Officers in the various locations and Regional Offices of the Veterans Administration to address issues and problems with veterans claim processing and rating. To encourage Posts and Districts to select qualified and able members to serve as Post and District Service Officers and to provide assistance to help them carry out their duties.

**(2)** The Veterans Affairs and Rehabilitation Commission will consist of the following sub-committee Chairman that will report to the commission: Hospitals and VAVS and Veterans Preference and Employment

**(e) Convention City Commission:** To investigate the facilities of cities placing a bid for a Department Convention; to recommend to the Department Executive Committee the city best qualified to hold a Department Convention; and provide periodic inspections and reports on the pending convention sites.

**(f) Legislative Commission: (1)** To represent the Department of Texas with the State Legislature and to contact Congress on matters of interest to Texas veterans, as long

as contact does not conflict with any National American Legion policy. To consider legislative matters and make recommendations to the Department Convention and/or Department Executive Committee and in general supervise the legislative program of the Department.

**(2)** The Legislative Council is the grassroots effort of the Legislative Commission and will be supervised by the commission. Each District Commander shall make a recommendation to the Department Commander for the appointment of a member from their District to the Department Legislative Council.

**(g) Public Relations and Publications Commission:** To serve as the voice of veterans by enhancing public perception of The American Legion, America's veterans and their families. Is responsible for the maintaining of the image of The American Legion and to communicate our various messages to the public, promoting and publicizing projects, events, programs and accomplishment of The American Legion. To provide direct oversight on all Department publications, Department Website, The Legion Times and any and all communications medias of the Department.

## **ARTICLE V**

### **BOND OF OFFICERS AND EMPLOYEES**

**Section 1.** All Department and Post officials handling American Legion money shall be bonded with bonding and surety company in an amount equal to double the average amount of money handled in a single year or such other amount as the Post Executive Committee deems adequate to protect the funds of the Post.

**Section 2.** Bonds for Department officials shall be approved by the Department Judge Advocate and the Department Executive Committee.

**Section 3 (a)** Bonds for Post officials shall be approved by the Post Judge Advocate and the Post Executive Committee.

**(b)** Posts shall provide the Department Judge Advocate a copy of all surety bonds annually by October 1<sup>st</sup>.

## **ARTICLE VI**

### **OPEN MEETING**

**Section 1.** All meetings of the Department Executive Committee, the Department Board of Trustees, all committee, sub-committees, commissions and sub-commissions shall be open to all members of The American Legion. Legionnaires who are not members of the committees or commissions have no voice or vote.

**Section 2.** All meetings of a Post shall be open to all members in good standing of the Post. Members of the Post who are not members of the committees have no voice or vote.

**Section 3.** Attendees without voice or vote may only speak as provided by the presiding officer.

**Section 4.** Notwithstanding Sections 1 and 2 above, the presiding officer can close a meeting to discuss personnel matters, real estate transactions and disciplinary matters. Any action must take place only when the closed session is ended and the meeting has been opened for the members.

## **ARTICLE VII**

### **INDEX**

**Section 1.** A convenient table of contents or index shall be prepared under the direction of the Department Judge Advocate and attached to this Department Constitution and By-Laws each time this Department Constitution and By-Laws is revised and reproduced by the Department.

## **ARTICLE VIII**

### **AMENDMENTS**

**Section 1.** These By-Laws may be amended at any Department Convention by favorable vote of two-thirds (2/3) of the total delegate votes on the floor. It is further provided that the proposed amendments shall have been read at such convention at least four hours before being voted upon and further provided that a record of the vote and the amendments shall be preserved. All proposed amendments to the Department By-Laws must be presented to the Chairman of the Department Constitution and By-Laws Committee of the Department Convention by noon of the opening day of the convention business session.

## **ARTICLE IX**

### **GENERAL ENACTING PROVISION**

**Section 1.** The provisions of the Department Constitution and By-Laws, and as hereafter may be amended, shall become effective immediately upon adoption. Conflicting provisions in preexisting Department Constitution and By-Laws are repealed and terminated by the adoption of this Department Constitution and By-Laws, unless otherwise specifically provided.

## **ARTICLE X**

### **MASCULINE AND FEMININE GENDERS**

**Section 1.** Wherever in this Constitution and in the Bylaws reference is made to the words "him", "he", "his" and similar shall be deemed to include, as appropriate, "her", "she", "hers", and similar references, to the end that all distinction between the male and female sexes, for purposes of this Constitution and Bylaws, shall be deemed eliminated.

## OFFICIAL SECTION

The preceding articles, sections, and pages constitute the official Constitution and By-Laws of The American Legion, Department of Texas, as amended by Department Convention in Dallas, Texas, July 8, 9, 10, 2005; Beaumont, Texas, June 25, 26, 27, 2010.

To certify which witness the official signature of the Department Adjutant and the seal of The American Legion, Department of Texas, this the 27<sup>th</sup> Day of June, 2010.

William R. West  
Department Adjutant

(SEAL)